

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KEVIN EUGENE SWARTZ,

Plaintiff,

v.

SEALED POWER CORPORATION:
SPX, THERMAL PRODUCT
SOLUTIONS,

Defendant.

Case No.: 4:15-cv-393-MWB (KM)

**COMBINED MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR
MORE DEFINITE STATEMENT AND TO QUASH SERVICE OF
SUMMONS**

SPX Corporation (“SPX”) moves to dismiss this action because the document purported to be the Complaint (D.I. 1) fails to comply with numerous procedural and substantive requirements.¹ In particular, the “Complaint” fails to meet the requirements of Federal Rules of Civil Procedure 8(a), 10(a), 10(b), and 11(a). Further, because the substance of the “Complaint” is impossible to understand given the unintelligible manner in which it is set out, SPX also moves

¹ D.I. 1 lists as the “Vassalee” an entity “Sealed Power Corporation: SPX, Thermal Product;” it is possible that the plaintiff intended to sue SPX as “SPX” as the named defendant. Thus, SPX files the present motion to protect its interests and rights. If SPX is not a party, SPX asks the Court and the plaintiff to so inform it.

to dismiss the action pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), or, at a minimum, for an Order requiring plaintiff to provide a more definite statement pursuant to Federal Rule of Civil Procedure 12(e) within ten days.

In addition, SPX moves to quash the alleged service of Summons because the plaintiff failed to comply with the service of Summons requirements of Federal Rules of Civil Procedure 4 and 12(b)(5).

This motion is supported by the accompanying Memorandum In Support, and a (Proposed) Order is also filed herewith.

LOCAL RULE 7.1 CERTIFICATION

As the filings in this action indicate that the plaintiff is proceeding *pro se* and plaintiff does not include a telephone number or email address with his filing as is normally required, counsel for SPX sent him a letter on March 18, 2015, by overnight mail discussing the present motion, the relief sought by this motion, and stating that SPX needed to file its motion by March 20th (since that is the date that this Court has docketed as the defendant's deadline to answer the Complaint), and asking plaintiff whether or not he would agree to the relief sought. As of the filing of this motion, SPX has not heard from the plaintiff in response to that letter.

Dated: March 20, 2015

BAKER & HOSTETLER LLP

By: /s/ John F. Murphy
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Counsel for SPX Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of March 2015, a copy of the foregoing COMBINED MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR MORE DEFINITE STATEMENT AND TO QUASH SERVICE OF SUMMONS, along with the MEMORANDUM IN SUPPORT, and (PROPOSED) ORDER were caused to be served by first-class mail upon *pro se* Plaintiff as follows:

Kevin E. Swartz
105 Old Orchard Road
Milton, PA 17847

/s/ John F. Murphy
John F. Murphy